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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,652	06/20/2001	Elihai Shahal	Sha-1	4183

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EXAMINER	
FLETCHER, MARLON T	
ART UNIT	PAPER NUMBER
2837	

DATE MAILED: 04/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/885,652	SHAHAL, ELIHAI	
	Examiner	Art Unit	
	Marlon T Fletcher	2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 December 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5-17 and 19-58* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5-17 and 19-58* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 5-9, and 11, are rejected under 35 U.S.C. 103(a) as being unpatentable over Monte et al. (5,183,398) in view of Austin (4,141,273).

Monte et al. disclose a system for learning playing of a musical instrument without a teacher, the system comprising: a series of lessons stored in a computer program (abstract); each lesson being programmed to include: automatic dynamic playing of at least one learning passage by a computer (column 2, lines 58-63 and abstract); and a period of silence of a predefined length relative to said learning passage, for playing of said learning passage by a student on a musical instrument (abstract and column 3, lines 28-40). Monte et al. disclose the system, wherein each lesson includes: dynamic playing of a series of learning passages by a computer; and periods of silence of a predefined length relative-to said learning passage after playing of each learning passage for playing of that learning passage by said student (abstract; column 3, lines 28-40; column 4, lines 14-21; and column 5, lines 24-29). Monte et al. disclose the system, wherein each learning passage includes a series of tones via audio device (26) arranged in a pre-selected order. Monte et al. disclose the system, further comprising a database of tones, from which said tones are accessed and played, one at

a time, during said dynamic playing (column 4, lines 64-68). Monte et al. disclose a database of graphic musical elements for representing said series of tones graphically as a series of notes on a screen as seen via video source (30). Monte et al. disclose a graphic illustration of finger positions (column 3, lines 28-38) on an instrument corresponding to dynamic playing of said series of tones in said learning passage.

The absence of coupling between the computer and the musical instrument is a negative limitation. It is obvious that Monte et al. can provide the learning passage without connection to the musical instrument. The connection provides a more advance operation for allowing a user to play the instrument and have his/her performance evaluated by a computer system. Monte et al. do not provide a non-coupling of the computer and the musical instrument.

However, Austin discloses a device (3) for generating musical passages corresponding to sheet music (23), wherein the output of provides visual output. The user is taught to play music corresponding to the visual output, which is controlled by the user, wherein the output can be controlled or turned off and on.

Official Notice is taken with respect to music players being well know in the art, wherein a music can be played, stopped, and started, manually or automatically.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use Austin and the teachings of the prior art with the apparatus of Monte et al., wherein music can be played and delayed, in order to give the user time to play the music. Monte et al. provides playing music and delaying music in order to give the user time to play a musical selection. Austin is merely added to show the same environment

of teaching wherein the musical instrument does not have to be connected to the learning device. Obviously, one could eliminate the connections of the musical instrument and computer of Monte et al., and still provide the teachings without computer evaluation.

3. Claims 19-27, 29-33, 36, 44, 45, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monte et al. in view of Austin as applied to claims 1, 4-9, and 11, above, and further in view of Renard et al.

Monte et al. and Austin are discussed above. Monte et al. disclose dividing the song into periods to be learned (abstract and column 2, lines 58-63). Monte et al. and Austin do not disclose buttons for composing.

However, Renard et al. disclose the system, further comprising: a composition portion including, means for activating, by means of a button, at least one composition command to compose a song (figure 9). Renard et al. disclose the system, wherein said computer includes means for automatically representing graphically on a screen a result of said composition command (figure 9). Renard et al. disclose the system, wherein said composed song is stored in said computer and can be played by the computer in said playing portion and by said student during said period of silence (column 8, lines 39-50). Renard et al. disclose the system, wherein said musical instrument is independent of said computer (figure 1). Renard et al. disclose the system, further comprising a display of at least one of the following parameters in a

practice screen: number of bars in said learning passage; tempo of said dynamic playing, length of said break portion; automatic or manual play; chord play; melody play; and means for selectively changing at least one of said parameters by the student (Figures 4 and 9). Renard et al. disclose the system further comprising a display of at least one of the following options in a practice screen: a demo of a complete song formed of a plurality of said learning passages; a practice mode selector for dividing a song into at least two learning passages of pre-selected length for automatic dynamic playing by said computer; and return to start (column 9, lines 39-50). Renard et al. disclose the system, wherein said learning passage includes a series of graphic notes and associated audio tones, each note being stored in the computer as a data string (figure 9). Renard et al. disclose the system, wherein said data string further includes chord data (figure 9).

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Renard et al. with the apparatus of Monte et al. in view of Austin, because Renard et al. provide enhancement, wherein composing is provided, wherein Monte et al. can provide audio along with visual composition created by the user, thereby providing audible and visual display. Austin merely provides a non-coupling of components.

1. Claims 2, 3, 10, 12-17, 28, 34, 35, 37-43, and 46-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monte et al. in view of Austin and Renard et al. as applied to claims 19-27, 29-33, 36, 44, and 45 above, and further in view of Eller (6,201,174).

Monte et al., Austin, and Renard et al. are discussed above. Renard et al. further disclose the system, wherein said means for activating composition commands includes: a display of seven basic notes; and a display of at least two note lengths (figure 9). Renard et al. disclose the system according, wherein said selection means is selected from the group including a mouse, a touch screen, and a computer keyboard (figure 1). Monte et al., Austin, and Renard et al. do not disclose a plurality of parameters.

However, Eller discloses a system, wherein each lesson includes a plurality of parameters, and said system includes means for selectively changing each of said parameters by the student (column 5, line 52 through column 6, line 14; and column 7, lines 40-46). Eller disclose the system, wherein said at least one composition command includes a name of a tone, and said computer includes means for inserting a note representing said tone in a correct location on a staff (column 8, lines 16-35). Eller discloses selection means for selecting a basic note and a note length for adding to a song; and means in said computer for automatically displaying said selected basic note of selected note length in a correct location on a displayed staff (column 7, lines 40-45 and column 8, lines 16-35). Eller disclose a method comprising: providing seven buttons (inherent) on a computer display, each button representing a different basic note; providing means for selecting at least one of said buttons by said student; and causing said computer to display the note represented by said selected button on a staff, so as to compose a song (figures 7A and 7B), wherein it well known to provide the buttons for corresponding to the notes.

Official Notice is taken with respect to it being well known in the art to provide a system comprising a help field for displaying one of a current beat number in a bar of a song being composed; or an instruction to insert a bar line and further providing a help field for displaying error messages in calculating number of beats.

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Eller and that which is well known in the art with the apparatus and methods of Monte et al. in view of Austin and Renard et al., because the teachings enhance the combination by further providing additional means for further enhancing the learning of the user operating the apparatus.

Response to Arguments

2. Applicant's arguments with respect to claims 1-17 and 19-58 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that the prior art does not provide musical lessons wherein the computer and the musical instrument are not connected. The negative limitation takes away from the combination, wherein the user provides his/her own evaluation. It would be obvious to eliminate the combination and supply the selections to be played without computer evaluation of the user. Austin is merely provided to show a learning method, wherein the computer and the musical combination need not be connected to learn music.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are related to teaching music:

Kennedy (5,690,496)

Colburn (3,690,212)

Ishii (5,400,687) and

Berry (Des. 295,278)

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon T Fletcher whose telephone number is 571-272-2063. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications.

Marlon T Fletcher
Primary Examiner
Art Unit 2837

MTF
April 5, 2004